

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:06CV76-MU-02

JERRY THOMAS SURRATT,  
Petitioner,

v.

M.L. PAYSOUR, Supt.,  
Respondent.

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ORDER

THIS MATTER comes before the Court on petitioner's "Petition Under 28 U.S.C. §2254 For Writ Of Habeas Corpus . . . "; and on his In Forma Pauperis application, both filed February 22, 2006.

As best as this Court can determine, the petitioner's Petition alleges that his due process rights were violated by virtue of his not having been immediately advised of and arraigned on the charges which were filed against him; that his guilty pleas were not voluntary made because he was coerced by threats of greater charges and penalties; that the search and seizure which produced the incriminating evidence against him was unlawfully conducted; and that he was subjected to ineffective assistance of counsel in several respects.

Although it is not entirely clear, the information provided by the petitioner suggests that the instant Petition may have been untimely filed. Accordingly, the Court will direct the State to file a response to the subject Petition, addressing both the timeliness of such Petition as well as the merits of the claims raised therein.

Regarding the petitioner's IFP application, the same must be denied. That is, the filing fee for the instant Habeas Petition is only \$5.00, but the petitioner's certified trust account statement shows that he currently has a balance of \$12.70 in that account. Therefore, it appears to the Court that the petitioner does have sufficient resources from which to pay the \$5.00 filing fee.

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

1. Within twenty (20) days of the date of this Order, the petitioner shall remit the \$5.00 filing fee to the Court.

**Failure to timely pay such fee could result in the summary dismissal of the instant Petition.**

2. Upon receipt of the subject filing fee, the Clerk shall send a copy of this Order to the Attorney General for the State of North Carolina.

3. No later than forty (40) days from the receipt of this Order, the Attorney General for the State of North Carolina shall file an Answer as above directed; and

4. The Clerk shall send a copy of this Order to the petitioner.

**SO ORDERED.**

Signed: March 1, 2006



Graham C. Mullen  
United States District Judge

